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EXTRAORDINARY

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GOVERNMENT OF KERALA

Law (Legislation-A) Department

NOTIFICATION

No. 16957-Leg. (A) 1/80/Law. *Dated, Trivandrum 25th July,* 1981/ *3rd Sravana,* 1903.

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the President on the 21st day of July, 1981.

By order of the Governor,

K. VISWANATHAN NAIR,
Special Secretary (Law).

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33/2783/MC.

ACT 17 OF 1981

THE KERALA SERVICE INAM LANDS (VESTING AND ENFRANCHISEMENT) ACT, 1981

An Act to provide for the vesting and enfranchisement of Service Inam lands in the State of Kerala.

Preamble.—WHEREAS it is necessary in the public interest to provide for the vesting and enfranchisement of Service Inam lands in the State of Kerala by abolition of all services attached to such lands and for matters incidental or ancillary thereto;

BE it enacted in the Thirty-second Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Service Inam Lands (Vesting and Enfranchisement) Act, 1981.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "appointed day" means the day on which this Act comes into force;

(b) "holding" means any parcel or parcels of Service Inam land held by a single landholder;

(c) "landholder" means a person holding Service Inam land.

Explanation.—Where any service inam land is in the possession of a person, other than the person to whom the land was granted for performing services or any of his successors-in-interest, the person in possession of the land shall be deemed to be the landholder for the purposes of this Act;

(d) "land owner" means the owner of Service Inam land;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "Service Inam land" means land held under a tenure to which some specific service or obligation in the shape of personal labour or supply of provisions is attached and includes land held under Viruthi, Oozhiyam, Karanma or Erayili tenure;

(g) "Settlement Officer" means the Settlement Officer appointed under section 13;

(h) "to hold" means to be in actual possession;

(i) the expressions "ceiling area" and "family" shall have the meanings respectively assigned to them in the Kerala Land Reforms Act, 1963 (1 of 1964).

3. *Vesting of the rights of landowners in Government and abolition of services.*—Notwithstanding anything contained in any law for the time being in force, or in any contract, or in any judgment, decree or order of any court, with effect on and from the appointed day,—

(1) all right, title and interest of the landowners in Service Inam lands held by land holders shall vest in the Government free from all encumbrances;

(2) any service or obligation attached to Service Inam lands shall stand abolished and the landholders shall have no liability or obligation to render any service attached to such lands.

4. *Amount to be paid by the Government.*—(1) In consideration of the vesting in the Government of the right, title and interest of any landowner in Service Inam lands under section 3, the Government shall, subject to the provisions of this Act, pay to such landowner an amount calculated at the rate of one thousand two hundred rupees per acre of such lands.

(2) The amount payable under sub-section (1) shall be paid in cash in lump and shall bear interest at the rate of four and a half per cent per annum from the date on which the order of the Settlement Officer under sub-section (4) of section 7 has become final, till the date of payment.

5. *Landholder's right to assignment.*—(1) The landholder of any holding or part of a holding, the right, title and interest in respect of which have vested in the Government under section 3, shall be entitled to assignment of such right, title and interest:

Provided that—

(a) no landholder shall be entitled to assignment of the right, title and interest in respect of any holding or part of a holding under this section if he, or if he is a member of a family, such family, owns or holds an extent of land not less than the ceiling area;

(b) where the landholder or if he is a member of a family, such family owns or holds an extent of land which is less than the ceiling area, he shall be entitled to the assignment of the right, title and interest in respect of only such extent of land as will, together with the land owned or held by him or his family, as the case may be, be equal to the ceiling area.

Explanation.—For the purposes of this sub-section, the expression "to hold" shall have the same meaning as in the Kerala Land Reforms Act, 1963 (1 of 1964).

(2) Any landholder entitled to assignment of the right, title and interest in respect of a holding or part of a holding under sub-section (1) may, within such period as may be prescribed, apply to the Settlement Officer within whose jurisdiction such holding or part is situate for assignment to him of such holding or part, as the case may be.

(3) An application under sub-section (2) shall contain the following particulars, namely:—

(a) the village, survey number and extent of the holding or part to which the assignment relates;

(b) the names and addresses of the landowner and other persons interested in the land and the nature of their interest so far as they are known to him;

(c) the particulars regarding other lands owned or held by him or if he is a member of a family, such family; and

(d) such other particulars as may be prescribed.

(4) Where a landholder is entitled to the assignment of the right, title and interest of only a portion of his holding, he may indicate in the application under sub-section (2), his choice of the portion to which the assignment shall relate.

6. *Purchase price.*—(1) The landholder shall be liable to pay purchase price to the Government for the assignment to him of the right, title and interest of the landowner.

(2) The purchase price referred to in sub-section (1) shall be eight hundred and forty rupees per acre to be paid in sixteen equal annual instalments:

Provided that if the amount is paid in one lump, the purchase price shall be seventy-five per cent of the said amount.

(3) Where the purchase price payable by the landholder is determined under section 7, he shall deposit with the Settlement Officer,—

(a) where the purchase price is opted to be paid in a lump, the entire amount due within six months; or

(b) where the purchase price is opted to be paid in instalments, the first instalment thereof within three months,

from the date on which the order of the Settlement Officer under section 7 has become final.

(4) Where the purchase price is paid in instalments, the second and subsequent instalments shall be deposited with the Settlement Officer within such time and in such manner as may be prescribed.

(5) Where the purchase price or any instalment thereof is not deposited on the due date, the amount in default shall bear interest at the rate of four and a half per cent per annum from that date till the date of deposit.

7. *Settlement Officer to issue notices and determine the compensation and purchase price.*—(1) As soon as may be after the appointed day, the Settlement Officer shall publish or cause to be published a public notice in such form and in such manner as may be prescribed, calling upon—

(a) the landholders;

(b) the landowners; and

(c) all other persons interested in the land, the right, title and interest in respect of which have vested in the Government,

to prefer claims and objections, if any, before such date as may be specified in the notice and to appear before him on the date specified therein with all relevant records to prove their respective claims or in support of their objections.

(2) The Settlement Officer shall issue individual notices to the landholders, the landowners and the other persons referred to in clause (c) of sub-section (1) so far as known to him, calling upon them to prefer claims and objections, if any, before such date as may be specified in the notice and to appear before him on the date specified therein with all relevant records to prove their respective claims or in support of their objections.

(3) Notwithstanding anything contained in sub-section (2), the publication of the notice in the manner referred to in sub-section (1) shall be deemed to be sufficient notice to the landholders, the landowners and all other persons interested in the land.

(4) The Settlement Officer shall, after considering the claims and objections received in pursuance of the notice issued under sub-section (1) or sub-section (2) and after hearing any person appearing in pursuance of specifying— the said notice and after making due enquiries, pass an order

(a) the extent, survey number and such other particulars as may be prescribed of the land, the right, title and interest in respect of which have vested in the Government under section 3;

(b) the amount due to the landowners under section 4;

(c) the purchase price payable by the landholder under section 6;

(d) such other particulars as may be prescribed.

(5) Where the landholder is entitled to the assignment of the right, title and interest in respect of only a portion of the holding held by him, the Settlement Officer shall, as far as possible, assign to the landholder the right, title and interest in respect of the portion of his choice.

8. *Payment of amount to the landowner to be full discharge.*—The payment of the amount specified in section 4 to a landowner and other persons entitled thereto in accordance with an order issued by the Settlement Officer under section 7 after it has become final, shall be full discharge of the liability of the Government for payment of such amount and no further claims for payment of any amount shall lie against the Government:

Provided that nothing contained in this section shall affect the liability of any person who may receive the whole or any part of the amount to pay the same to the persons lawfully entitled thereto.

9. *Issue of pattas and other documents to landholders.*—(1) As soon as may be after the order of the Settlement Officer under section 7 has become final, the Settlement Officer shall issue pattas or other documents evidencing full proprietary rights of the landholders in their holdings.

(2) The pattas or other documents issued under sub-section (1) shall contain such particulars as may be prescribed.

10. *Amounts due to the Government to be recoverable under the Revenue Recovery Act.*—Any amount due to the Government as arrears of purchase price or otherwise from any landholder under this Act shall be a first charge on his holding and the same shall be recoverable as arrears of public revenue due on land under the provisions of the Kerala Revenue Recovery Act, 1968.

11. *Orders of Settlement Officer to be deemed to be decrees of civil court.*— Any order of the Settlement Officer under section 7 shall be deemed to be a decree of a civil court and shall contain a concise statement of the case, points for determination, the decision thereon and the reasons for such decision.

12. *Appeal.*—Any person aggrieved by an order of the Settlement Officer under section 7 may appeal, within thirty days of the receipt by him of the order, to the District Collector having jurisdiction over the area in which the holding is situate, and the District Collector shall, after giving the appellant a reasonable opportunity of being heard and after making such further enquiry as may be prescribed, pass such order on the appeal as he thinks fit.

13. *Revision.*—(1) The Board of Revenue may, either of its own motion or on application by any person aggrieved by an order under section 12, call for and examine the record of any proceeding in which such order has been passed for the purpose of satisfying itself as to the legality, regularity or propriety of such order or proceeding and pass such order thereon as it thinks fit.

(2) The Board of Revenue shall not of its own motion call for and examine the record of any proceeding under sub-section (1), if the order to which the proceeding relates has been made more than two years previously.

(3) In the case of an application under sub-section (1) by any person aggrieved, the application shall be made within two years from the date on which the order in question was communicated to him.

14. *Corrections to the final order.*—No correction shall be made in the order of the Settlement Officer after it has become final, provided that the Settlement Officer may, either of his own motion or on application filed by a person interested, correct any clerical or arithmetical mistake or any error arising therein from any accidental slip or omission:

Provided that no such correction shall be made without giving an opportunity of being heard to the party who may be affected thereby.

15. *Settlement Officers.*—The Government shall appoint as many Settlement Officers as may be necessary from among officers not below the rank of Tahsildar for the purpose of exercising the powers and performing the functions of a Settlement Officer under this Act.

16. *Powers of Settlement Officer, District Collector and Board of Revenue.*—The Settlement Officer, the District Collector and the Board of Revenue shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavit;

(d) issuing commissions for examination of witnesses or for local investigation;

(e) requisitioning any public record or copy thereof from any court or office; and

(f) any other matter which may be prescribed.

17. *Decision of disputes as to whether land is Service Inam Land.*—If any question arises as to whether any land is a Service Inam Land for the purposes of this Act or not, the question shall be referred to the Government for decision and the decision of the Government thereon shall be final.

18. *Bar of jurisdiction of civil courts.*—No civil court shall have jurisdiction to decide or deal with any question or to determine any matter which is, by or under this Act, required to be decided or dealt with or to be determined by any officer or authority under this Act.

19. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceedings shall lie against the Government or any officer for any act which is in good faith done or intended to be done under this Act or the rules made thereunder.

20. *Power to remove difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Gazette, make such provisions not inconsistent with the provisions of this Act which appear to them necessary for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiry of two years from the date on which this Act comes into force.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before the Legislative Assembly.

21. *Power to make rules.*—The Government may, by notification in the Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for the following matters, namely:—

(a) the fees payable on applications, appeals and claims made under this Act and the persons by whom and the period within which such fees shall be paid;

(b) the procedure to be followed by the Settlement Officer;

(c) any other matter which under this Act is to be, or may be prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a period of fourteen days which may be comprised in one session or in two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

22. *Repeal.*—Proclamations dated the 16th May, 1886 and the 7th August, 1893, relating to Viruthi Services and the Proclamation dated the 13th May, 1893, relating to Service Inam Lands, issued by the Ruler of the former State of Travancore and Proclamation No. XII of 1122 dated the 21st December, 1946, promulgated by the Ruler of the former State of Cochin are hereby repealed.

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EXTRAORDINARY

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GOVERNMENT OF KERALA

Agriculture (Forest) Department

G. O. (Ms.) No. 194/81/Forest. *Dated, Trivandrum, 25th July,* 1981.

S. R. O. No. 891/81.—In exercise of the powers conferred by section 3 of the Kerala Essential Articles Control (Temporary Powers) Act, 1961 (3 of 1962), the Government of Kerala hereby make the following Order to amend the Kerala Essential Articles (Movement Control) Order, 1981, namely:—

ORDER

1. This Order may be called the Kerala Essential Articles (Movement Control) Amendment Order, 1981.

2. In the Kerala Essential Articles (Movement Control) Order, 1981, for the words "rubber wood" occurring in sub-clauses (b), (d) and (e) of clause 7 and in clause 8, the words "essential articles" shall be substituted.

By order of the Governor,

K. L. N. Rao,
Special Secretary to Government.

33/2784/MC

Explanatory Note

(This does not form part of the notification, but intends to indicate the general purport).

The powers of entry, seizure etc., conferred under clause 7 and powers of the Court to direct forfeiture conferred under clause 8 of the order issued under G. O.(Ms.) No. 179/81/Forest (II) dated 20th June 1981 are to be made applicable not only to rubber wood but to all the species of wood declared as essential articles. The above notification is intended to achieve this object.

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